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September 17, 2018

Marcus Yee
 Department of Water Resources WaterFix Comments 2018
 901 P Street P.O. Box 1919
 Sacramento, CA 95814 Sacramento, CA 95812

Re: California WaterFix Draft Supplemental Environmental Impact Report/
 Environmental Impact Statement (SEIR/EIS) - SCH 2008032062

Via email: WaterFixComments@icf.com

Dear Mr. Yee,

Thank you for the opportunity to provide comments on the Draft Supplemental EIR/EIS for the California WaterFix. We previously submitted comments on the Draft Bay-Delta Conservation Plan (BDCP) and associated Draft EIR/EIS (July 24, 2014) and the BDCP/California WaterFix (CWF) Partially Recirculated Draft EIR/Supplemental EIS (RDEIR/SDEIS) (October 30, 2015, attached).

In these letters and elsewhere, the Delta Protection Commission has repeatedly expressed strong concerns about the significant irreversible and permanent environmental effects of the proposed twin tunnels project on Delta communities, recreation and agriculture. Please note that Commission members representing State agencies do not necessarily share these concerns, and this letter in no way implies a recommendation or position of the Governor or his administration.

The Commission's legislative mandate and role in the Delta was detailed in our previous letters.

By and large, the project modifications analyzed in the WaterFix Draft SEIR/EIS do little to alleviate the majority of impacts to Delta communities. The project modifications in the SEIR/EIS generally focus on reducing the impacts of the approved project by reducing footprint size and location in specific areas, with the overall effect of reducing activities in wetlands and other waters of the United States. The detailed comments in our October 30, 2015 letter (Comment letter 2581, comment numbers 1-36 in the 2016 Final BDCP/CWF EIR/EIS Volume II:

Comments and Responses to Comments) remain largely applicable, especially with respect to significant irreversible and permanent effect on Delta communities, recreation and agriculture.

We have specific comments on the impacts of the proposed project as analyzed in the SEIR/EIS, and below point out instances where our previous specific comments still apply to those areas. First, however, we have a general comment with respect to the State's policy for management of the Delta.

General Comment: Delta as Place

We take issue with the DWR position, as expressed in Master Response (MR) 24 (Delta as Place), which argues that other agencies, not DWR, are responsible for implementing the legislative mandate to protect and enhance the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place ("Delta as Place"). We disagree with the conclusions of MR 24, MR 31 and elsewhere, that the significant impacts of the proposed project on the unique cultural, recreational, and agricultural resources of the Delta can be bypassed by the standard of being "on the whole, consistent with the co-equal goals themselves (23 CCR Section 5002, subd. (b) (1))", when the scope of the project is so sweeping as to alter the landscape, both literally and figuratively, of the Delta.

The legislative intent is clear in Water Code (WC) 85020 that "Delta as Place" is inherent in, and not secondary to, the co-equal goals:

85020. The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta:

- (a) Manage the Delta's water and environmental resources and the water resources of the state over the long term.
- (b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.
- (c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.
- (d) Promote statewide water conservation, water use efficiency, and sustainable water use.
- (e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.
- (f) Improve the water conveyance system and expand statewide water storage.
- (g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.
- (h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives. (*Added by Stats. 2009, 7th Ex. Sess., Ch. 5, Sec. 39. Effective February 3, 2010.*)

85054. "Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. (*Added by Stats. 2009, 7th Ex. Sess., Ch. 5, Sec. 39. Effective February 3, 2010.*)

The definition of co-equal goals set forth in WC 85054 is likewise unequivocal: the co-equal goals are not separable from, but are unified by the requirement that they shall be achieved in a manner that

protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. It defies and defeats the legislative intent to assert that the evolution of the Delta requires an alteration so complete as to make it no longer recognizable.

Comments Addressed to Specific Changes in Impact Areas:

The SEIR/EIS characterizes and evaluates incremental changes between the approved project impacts and the proposed changes. Following is a selection of some specific determinations to serve as examples of our continuing concerns. The Commission's relevant October 30, 2015 comments are referenced by the number assigned in the 2016 FEIR/EIS:¹

SEIR Impacts LU-1 (Incompatibility with Applicable Land Use Designations, Goals, and Policies as a Result of Constructing the Proposed Water Conveyance Facility) and LU-2 (Conflicts with Existing Land Uses as a Result of Constructing the Proposed Water Conveyance Facility)

The proposed project modification would decrease some "land use incompatibilities" identified in Impact LU-1 by moving or eliminating reusable tunnel material (RTM) storage in various locations. These incompatibilities would be reduced at the intermediate forebay, Byron Tract, and to a small degree at Bouldin Island. As identified by Impact LU-2, the changes related to moving RTM storage sites in these areas would also reduce the number of impacted structures (including residences and storage facilities) by 31. Land use incompatibilities identified in Impact LU-1 would be eliminated at other areas with wetland resources such as on Zacharias Island and Stone Lakes National Wildlife Refuge. We are encouraged by this incremental improvement in wetland and associated wildlife impacts. However, much if not all of the reduction comes at the expense of increased agricultural land impacts, which are described in Impact AG-1 and AG-2 in Chapter 14 (Agriculture). While this trade-off is described in Chapter 14 and cross-referenced to Chapter 13 (Land Use), it is not cross-referenced from Chapter 13 to Chapter 14, but is merely described as unspecified "incompatibilities." The cross-reference should be made and clarified.

Our comments 2581-4, 2581-5, 2581-7, 2581-8 and 2581-28 in particular apply to these impacts.

SEIR Impact LU-3 (Create Physical Structures Adjacent to and through a Portion of an Existing Community as a Result of Constructing the Proposed Project)

The proposed modifications to the approved project include realignment of the tunnels eastward to avoid the town of Hood and several municipal water wells. We welcome this change, but Impact LU-3 acknowledges that the proposed project would result in permanent structures in the community's vicinity, a significant and unavoidable impact. Construction of the tunnels between Intakes 3 and 5 and the intermediate forebay would involve construction activities to the north and south of the

¹ 2016 Final BDCP/CWF EIR/EIS Volume II: Comments and Responses to Comments Table 2-2, RECIRC Comment Response Letters 2570-2599 starting at pag 115

community of Hood, the presence of surface features related to tunneling (e.g., RTM areas, shafts, access roads) and a proposed temporary power line that would traverse portions of the community (SEIR/EIS. Figure M3-4, Sheet 1). Since construction activities will potentially occur over the eleven-year tunnel construction period, these “temporary” activities and impacts are virtually permanent for the community. Furthermore, the proposed project’s permanent physical structures approximately one-quarter mile north and one-half mile south of Hood would still alter the community’s surroundings from rural to industrial, and could well result in at least partial abandonment of the town by residents and businesses. The mitigation measures from the 2016 Final EIR/EIS (TRANS-1a and TRANS-1b) propose traffic management and limiting construction hours during the 10+ years of construction. The presence of these elements in the community for over a decade will completely disrupt and alter the quiet rural character which will indeed physically divide the community, as the SEIR/EIS concludes. However, we disagree with the conclusion that these mitigations will result in reduction of incompatible land use impacts which are effectively not temporary.

Our comments 2581-2, 2581-3 and 2581-4 are applicable here. As acknowledged in Responses to Comments 2581-4 and repeated in several other responses, adverse physical impacts - such as blight and abandonment of buildings resulting from notable decreases in population and employment, lack of maintenance, and general reductions in investment - are physical impacts that must be addressed in the environmental review. DWR has failed to properly evaluate this impact in Land Use Chapter 13 (especially for Hood), nor has it proposed mitigation measures to adequately address this impact. As such, the Commission would classify these impacts instead as “Significant Irreversible Environmental Changes” (Title 14, Div. 6, Chapter 3, Article 9, Section 15126.2 (c)).

SEIR Impacts AG-1 (Temporary Conversion, Short-Term Conversion, and Permanent Conversion of Important Farmland or of Land Subject to Williamson Act Contracts or in Farmland Security Zones as a Result of Constructing the Modified Water Conveyance Facility) and AG-2 (Other Effects on Agriculture as a Result of Constructing the Proposed Water Conveyance Facility)

The proposed changes would increase permanent impacts to Agriculture (Ch 14). While the proposed project would result in the temporary conversion of 86 fewer acres of Important Farmland, it would result in permanent conversion of 684 more acres of Important Farmland than would the approved project. Similarly, the proposed project would reduce by 9 acres the temporary conversion of Williamson Act lands, but would result in permanent conversion of 214 more acres of Williamson Act lands than would the approved project. The level of impact would remain significant and unavoidable with implementation of the proposed project.

Our comments 2581-4, 2581-5, 2581-7, 2581-8, 2581-28 and 2581-30 in particular apply to these impacts.

SEIR Impacts REC-2 (Result in Long-Term Reduction of Recreation Opportunities and Experiences as a Result of Constructing the Proposed Water Conveyance Facilities) and REC-3 (Result in Long-Term Reduction of Recreational Navigation Opportunities as a Result of Constructing the Proposed Water Conveyance Facilities)

A slight reduction in some Recreation (Chapter 15) impacts would result from the proposed changes to the approved project, but an additional recreation site would be affected adjacent to Bouldin Island. Specifically, the change in the RTM footprint on Bouldin Island would affect the Tower Park Marina Resort by introducing noise and light in the vicinity of the marina. No in-water activity is expected from this change, and views from the marina are not expected to change because the Bouldin Island levees would block views of the RTM storage areas. The impacts remain significant, and no new mitigations are identified.

Our comment 2581-27 regarding re-instituting Environmental Commitment EC 36.3.3 apply here. EC 36.3.3 would have the project proponents contribute funds for construction of new recreation opportunities as well as for protection of existing recreation opportunities as outlined in Recommendation DP 11 of the Delta Plan. The Final 2016 EIR/EIS argued that this EC does not apply to California WaterFix because total impacts have been substantially reduced from the previous BDCP alternatives. Yet impacts to Delta recreation opportunities and experiences from the preferred alternative are still found to be significant, as concluded by the Draft SEIR. This continues to be a missed opportunity to mitigate impacts to recreational opportunities. While we believe EC 36.3.3 is too vague, a feasible plan developed in consultation with State Parks and funded by project proponents could result in meaningful mitigation which would reduce impacts to recreational opportunities in the Delta.

We appreciate the opportunity to comment on the Draft SEIR/EIS. We will continue to voice our concerns on the proposed project and its significant effects on the Delta as a Place, as provided in the Delta Reform Act.

Sincerely,



Erik Vink

Executive Director

Attachment: Delta Protection Commission 2015 comment letter

cc: Chair Skip Thomson and members, Delta Protection Commission

DELTA PROTECTION COMMISSION

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**ATTACHMENT TO 2018 CWF SEIR/EIS:
 DELTA PROTECTION COMMISSION 2015 COMMENT LETTER**

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 Contra Costa County Board of
 Supervisors

Skip Thomson, Vice Chair
 Solano County Board of
 Supervisors

Don Nottoli
 Sacramento County Board of
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Bob Elliott
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 CA Department of Food and
 Agriculture

John Laird
 CA Natural Resources Agency

Brian Bugsch
 CA State Lands Commission

Ex Officio Members

Honorable Jim Frazier
 California State Assembly

Honorable Cathleen Galgiani
 California State Senate

October 30, 2015

BDCP/California WaterFix Comments
 P.O. Box 1919
 Sacramento, CA 95812

**Re: Bay Delta Conservation Plan/California WaterFix Partially
 Recirculated Draft Environmental Impact Report/Supplemental Draft
 Environmental Impact Statement (RDEIR/SDEIS)**

(via email: BDCPComments@icfi.com)

The Delta Protection Commission (Commission) is a California State agency created by the Delta Protection Act of 1992, which declared “the Delta is a natural resource of statewide, national, and international significance, containing irreplaceable resources, and that it is the policy of the state to recognize, preserve and protect those resources of the Delta for the use and enjoyment of current and future generations” (California Public Resources Code (PRC) section 29701).

The Legislature refined the Commission’s role in 2009 amendments to the Delta Protection Act and by enacting the Delta Reform Act of 2009 (Chapter 5, Statutes of 2009). That Act declared that the State’s basic goals for the Delta are to provide a more reliable water supply for California and protect, restore and enhance the Delta ecosystem “in a manner that protects and enhances the unique cultural, recreational, natural resource and agricultural values of the Delta as an evolving place” (PRC section 29702(a) and Water Code section 85054). In addition, State law identifies the Commission as a “forum for Delta residents to engage in decisions regarding actions to recognize and enhance the unique cultural, recreational, and agricultural resources of the Delta” (PRC section 29703.5(a)) and directs the Commission to lead and support a variety of recommendations in the Delta Stewardship Council’s Delta Plan, many related to protecting and enhancing the Delta’s unique values.

The Commission has expressed strong concerns about the proposed twin tunnels project on many occasions. In its last discussion on the project, the Commission authorized its Executive Director to submit comments on the RDEIR/SDEIS on its behalf. Please also note that Commission members representing State agencies do not necessarily share these concerns and this letter in no way implies a recommendation or position of the Governor or his administration.

The Commission has reviewed the California WaterFix project (and the preceding Bay Delta Conservation Plan) with an eye toward its impacts on the unique Delta values. The Commission staff reviewed the proposed project's most significant impacts to the Delta region. The length, complexity and highly technical nature of the RDEIR/SDEIS prohibit a comprehensive review of all project impacts by the comment period deadline.

The Commission acknowledges and appreciates the improvements to the proposed California WaterFix project since the Bay Delta Conservation Plan (BDCP) proposal, namely, the elimination of pumping plants proximate to the north Delta river intakes in favor of a pumping plant at the south Delta tunnels terminus; the construction of earthen sedimentation basins rather than concrete-lined basins; and the relocation of selected tunnel shaft locations to less sensitive areas. All of these changes would reduce overall construction-related impacts [e.g., pile-driving in proximity to Delta residents/businesses; permanent electrical transmission lines and pumping plant structures that would mar Delta aesthetics and harm wildlife (in the case of the transmission lines); reduction in construction traffic] in the more populated north Delta, even as it will heighten some impacts in the south Delta (specifically, the associated local impacts from the pumping plant construction at Clifton Court Forebay).

Despite the improvements described above, the Commission objects to the proposed project because of its short- and long-term harm to the unique values of the Delta. The project's construction impacts – river intakes and associated forebay, conveyance facilities and associated above-ground and subsurface disturbance – would cause significant and unavoidable harm to the Delta, including: the destruction of homes, some of which are significant historical buildings; traffic congestion with attendant impacts on local businesses that would not likely survive a 10-year or longer construction period; and interference with access to well-used informal recreation, such as bank fishing, and driving for pleasure.

Furthermore, the project's operations would most likely degrade water quality to the detriment of in-Delta water users. California WaterFix would fundamentally change the agricultural- and water-based character of Delta communities and landscape because of the many impacts that could not possibly be mitigated. Even the RDEIR/SDEIS acknowledges that the project and attendant mitigation measures would “alter the Delta landscape by incrementally, and substantially, introducing elements into the study area over time. This could pave the way for the gradual transition of a much valued cultural and regional landscape and make it easier for

other similar projects to be implemented over time because of the devalued baseline conditions....” (Appendix A, Chapter 17, p. 17-54).

The RDEIR/SDEIS repeatedly fails to identify mitigation for the damages that would occur to Delta communities. The analysis dismisses very real impacts on the Delta’s economy (such as incompatibility with local land use designations and policies, conflicts with existing land uses, and effects on the recreation economy) because the RDEIR/SDEIS considers these to be temporary changes (not physical or permanent) and therefore not an impact. A decade’s worth of construction activity could hardly be termed temporary. Land use and socioeconomic impacts over such a time period would result in substantial loss of revenue, likely business closures, and loss of entrepreneurial opportunities. Although the RDEIR/SDEIS promises to compensate property owners for direct losses due to the tunnel construction, property owners and workers who will suffer indirectly would not be eligible. Further, the RDEIR/SDEIS considers and discards socioeconomic impacts as less than significant because they are not physical impacts. However, that approach ignores the physical impacts of economic and social decline, such as vacant and deteriorating buildings, and lack of investment in infrastructure, including levees.

The RDEIR/SDEIS often defers the creation of feasible and enforceable mitigation to the preparation of subsequent plans. These include construction traffic management plans, Agricultural Land Stewardship Plans, and an Adaptive Management Program that would be the backbone for managing California WaterFix operations in order to prevent exceeding water quality standards. These mitigation measures include phrases such as “where feasible,” “make good faith efforts,” and “could be provided/developed” that demonstrate a frustrating lack of commitment. In the case of in-Delta water quality impacts, the mitigation measures leave it to the proponents to determine whether and under what terms to provide funding for alternative water supplies — raising the question of whether there could be an objective evaluation of local need for such supplies. The RDEIR/SDEIS sorely lacks specificity and commitment in many important mitigation measures.

Finally, the sheer scale and complexity of the RDEIR/SDEIS make it extremely difficult to comprehend the project’s effects on the Delta. By combining new, old and partially-edited project impact analyses, the RDEIR/SDEIS requires a herculean effort to navigate through multiple technical documents to piece together enough information to understand what has changed from BDCP and how project impacts would (or would not) be mitigated. There is no clear summary of the California WaterFix’s potential impacts and proposed mitigation measures — the RDEIR/SDEIS commingles the analysis of preferred alternative 4A with that of 17 other alternatives, making it all but impossible to compare the project to the baseline condition.

Consequently, it is our conclusion that the California WaterFix project fails to meet the requirements of existing State law, which calls for achieving the coequal goals in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural

values of the Delta as an evolving place (PRC section 29702(a)). Despite thousands of pages of analyses and mitigation measures, the RDEIR/SDEIS fails to convince that the project is not yet another massive engineering project that harms the Delta region for the benefit of Delta water exporters.

The following comments describe examples of unmitigated or unacknowledged impacts, degradation, and loss to the Delta that would be caused by the proposed project, organized in the following categories: Communities, Recreation, Agriculture, Water Quality, and Water Supply.

COMMUNITY IMPACTS

The California Water Fix project would permanently alter the trajectory of Delta communities by degrading residents' quality of life, traditional economic engines such as agriculture and recreation, the social fabric of communities, the cultural and visual character of the region, and the visitor experience. Specific impacts described in the RDEIR/SDEIS include reduced employment and income in traditional economic sectors, unacceptable conditions for vehicle traffic and transit, reduced emergency response times, destruction of archeological, built environment, and paleontological resources, incompatibility with existing land uses and applicable land use designations and plans, exposure to construction noise at all hours, new sources of light and glare, and substantial alteration of the visual quality and character of the region.

The RDEIR/SDEIS fails to adequately analyze the extent of these impacts on communities, underestimates the negative aspects of the project, and overestimates the positive aspects. The convoluted nature of the RDEIR/SDEIS makes complete understanding of project impacts for each community difficult. The project description and analysis should isolate impacts for each community, including the timeframe for each impact, to determine potential changes to community character.

The RDEIR/SDEIS should provide a solid foundation for its socioeconomic analysis through a thorough description of baseline conditions. An independent peer review panel assembled by the Delta Science Program found that the Commission's *Economic Sustainability Plan* (ESP) provided valuable baseline information about the Delta economy, yet the RDEIR/SDEIS ignores much of this baseline information, stating only that "the ESP sometimes used assumptions and data different than those applied for the analysis in this chapter" (BDCP Draft EIR/EIS p. 16-33). These assumptions and data are critical to the socioeconomic analysis, such as the \$98 million discrepancy between total agricultural production values in the Delta in the ESP (\$795 million) versus the RDEIR/SDEIS (\$697 million). The RDEIR/SDEIS should provide an explanation for why the analysis used specific assumptions and data over other, commonly used assumptions and data.

Given the critical importance of flood protection for Delta communities and the greater region, project impacts on levees and floodplains require further analysis than provided in the limited discussion in the RDEIR/SDEIS. The consequences of a levee break and flooding could include harm to human and animal life, infrastructure, property, and habitat. The socioeconomic and natural resource effects of flooding could be enduring and, in the case of infrastructure damage, widespread.

Project activities, including construction of multiple cofferdams, levee reconfigurations, sediment loading, construction traffic, pile driving, and dewatering, threaten to damage the integrity and stability of levees through lack of maintenance and emergency response, erosion, seepage, subsidence, and sink holes. Several thousand acres (depending on the citation in the RDEIR/SDEIS, the total ranges from 2,570 acres to 3,630 acres) will be used on a temporary basis for the storage of reusable tunnel material (RTM, or the soil and material excavated from twin tunnel borings). As many of the proposed storage sites for RTM are located in the floodplain, placement of large volumes of material (even on a temporary basis) has the potential to significantly impact drainage conveyance, and floodplain storage at critical locations in the Delta.

These impacts show the potential hazards resulting from a project that fundamentally alters a complex and interconnected system of Delta levees and drainage facilities. Unfortunately, the existing analysis in the RDEIR/SDEIS leaves detailed analysis for later iterations of the project. The environmental document should contain project design and mitigation programs that are based on detailed technical analysis of the existing levee and drainage systems.

The thresholds for impacts are often not described and, when they are, they appear artificially constrained to make impacts less than significant. Discussion of Impacts TRANS-1 through TRANS-3, which consider construction vehicle trips, pavement conditions, and safety hazards on local roadways, states that impacts would be less than significant if mitigation measures were sufficiently implemented, yet there is not an adequate description of how these vague and noncommittal measures would satisfy significance thresholds.

The RDEIR/SDEIS repeatedly fails to provide mitigation that adequately addresses the nature of impacts on communities. Project proponents should consider mitigation measures that reduce economic blight, such as investing in public facilities and infrastructure through the Delta Investment Fund (PRC section 29778.5), funding the expansion and implementation of the Commission's Delta Community Action Planning project (the Commission is currently preparing community action plans in Courtland and Walnut Grove to promote physical improvements in these Legacy communities), or supporting agricultural, cultural, recreational, and tourism programs and projects through the newly created Delta Regional Foundation. In Impact ECON-3, the authors argue that mitigation measures and environmental commitments related to noise, visual effects, transportation, agriculture, and recreation will reduce impacts

to community character, but the RDEIR/SDEIS fails to describe how any of these measures and commitments will preserve community character.

The RDEIR/SDEIS acknowledges that groundwater losses related to construction dewatering and implementing environmental commitments may not be replaced with supplies to meet pre-existing demands or planned demands of affected parties. These groundwater quantity and quality losses for agricultural and municipal supplies are considered a significant and unavoidable impact, but these impacts are completely avoidable and mitigable.

Project proponents should provide mitigation that goes beyond simply what is required under the California Environmental Quality Act (CEQA), but also address the statutory requirement that “the coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place (PRC section 29702(a)). The discussion of socioeconomic impacts, in particular, shows little effort to protect and enhance these values. If the RDEIR/SDEIS is not the proper forum for these mitigation measures, project proponents need to address them in a way that provides an opportunity for public comment.

Creation of feasible and enforceable mitigation is often deferred until preparation of subsequent plans, which will not have the benefit of public comment. Transportation mitigation measures, particularly TRANS-1b and TRANS-1c, lack specificity and commitment to alleviating traffic congestion due to the project. These mitigation measures include words and phrases such as “where feasible,” “process,” “make good faith efforts,” and “may” that demonstrate a frustrating lack of teeth. Specificity and commitment in transportation mitigation measures is sorely needed, because the impacts of traffic congestion on the agricultural economy and rural communities such as Byron, Clarksburg, Courtland, Hood, Locke, Ryde, and Walnut Grove – communities that are reliant on one or two idiosyncratic levee roads – could be devastating.

Similarly, Mitigation Measures CUL-5 and CUL-6 regarding historic resources provide the outline of built environment treatment plans and a vague assurance that project proponents will consult with relevant parties prior to demolition or ground-disturbing activities. The cultural resources mitigation measures currently focus on specific properties or sites but should look at the cultural values of the Delta in a larger context, as suggested by the cultural landscape approach discussed in the Secretary of the Interior’s *Standards for the Treatment of Historic Properties + Guidelines for the Treatment of Cultural Landscapes*. This contextual approach is particularly fitting given that the Commission and members of Congress are pursuing designation of the Delta as a National Heritage Area. Further environmental review should reference the Commission’s *Feasibility Study for a Sacramento San Joaquin Delta National Heritage Area*, reviewed and approved by the National Parks Service in June 2012; legislation creating the Sacramento San Joaquin Delta National Heritage Area introduced in the 112th, 113th, and 114th Congress; and the Commission’s Delta Narratives project

(www.delta.ca.gov/delta_narratives.htm), which developed academic essays that assessed the historic and cultural importance of the Delta region in California and American history.

The project would permanently damage scenic resources along Highway 160, which is designated as a State scenic highway. The RDEIR/SDEIS finds that the visual impacts of the conveyance facilities are significant and unavoidable despite the mitigation measures offered. Other potential mitigation measures, such as landscape barriers, visitor centers or kiosks, interpretive signs, and viewpoints, could provide some relief but ultimately cannot repair the visual disruption from the project.

Impacts to historic resources are similarly significant and unavoidable. Documentation, interpretation, salvage, and restoration of other properties cannot make up for the fact that these resources will be removed permanently. Implementation of the project as currently conceived would irreparably harm the Delta as we now know it.

RECREATION IMPACTS

By 2020, the population of the five Delta counties is projected to be over 4 million people. Visitors to the Delta generate a total of approximately 12 million visitor days of use annually with a direct economic impact of more than a quarter of a billion dollars in spending, according to the ESP. California WaterFix would significantly impact recreation values, recreation opportunities and the recreational economy of the Delta with a massive construction project over the course of 10 years.

The RDEIR/SDEIS is inadequate in its analysis related to economic impacts to Delta recreation and tourism. The RDEIR/SDEIS continues to undervalue recreational spending in the Delta with a \$76 million discrepancy between the ESP (\$312 million) versus RDEIR/SDEIR (\$236 million).

Additionally, the RDEIR/SDEIS states recreational expenditures that affect regional employment and income have not been quantified. The document could better serve readers with inclusion of economic data from the Commission's ESP. For example, the ESP estimates recreation and tourism supports 3,064 jobs in the five-county Delta region with a labor income of approximately \$100 million. Inclusion of this information in the document would better inform readers of potential impacts to the Delta's recreational employment.

The importance of recreational boating, fishing and camping to the Delta economy can be measured by the estimated \$194 million spent yearly. Constricted or inaccessible waterways and heavy truck traffic would likely reduce visitor trips and expenditures, further impacting existing well-established businesses which may be unable to economically weather the effects of multi-year construction activities. These economic impacts are inadequately addressed in the RDEIR/SDEIS. The Commission continues to recommend that the project proponents

provide funds to compensate business owners for loss of revenue due to construction of the project or provide funds to improve these facilities.

Driving for pleasure is estimated to provide \$26 million dollars to the Delta economy annually, as cited in the Commission's ESP. However, project impacts such as detours, road closures, heavy truck traffic or diminished aesthetics to this recreational activity are not considered in the RDEIR/SDEIS. Potential mitigation measures are noted above and include landscape barriers, viewpoints, and visitor centers.

In general, there is insufficient quantitative assessment of recreation impacts to determine an adequate level of mitigation. The Commission's ESP and 2005 Inventory of Recreational Facilities should be consulted and would be useful in providing an appropriate quantitative assessment. Once this is accomplished, the necessary levels of funding could be determined and shared with the public. Specific feasible mitigation measures could be written and enforced.

The RDEIR/SDEIS recognizes that reduced access and delays to boat passage would occur on the Sacramento River as a result of tunnel intake construction. However, it concludes that boat passage volume along this section of the river is low without providing any documentation. It doesn't appear that the dozen or more boat launches located in nearby upriver locations were considered when the boat passenger volume was estimated. Further, the RDEIR/SDEIS only considers boating navigational impacts in the vicinity of the intakes during construction (including extensive no-wake zones that would deter recreational boating along many miles of the river) and does not consider any navigational impacts or speed restrictions once the river intakes are operational.

The RDEIR/SDEIS contains undefined measures and commitments. In Mitigation Measure REC-2, the project proponent proposes to provide alternative bank fishing access sites by enhancing nearby formal fishing sites. However, three of the four sites proposed to be enhanced (Clarksburg Fishing Access, Georgiana Slough and Clifton Court Forebay) would be directly impacted and rendered less usable due to project construction. Additionally, the enhancements are undefined. The measure provides the reader with no idea of how the undefined enhancements to formal fishing sites would compensate for the loss of bank fishing sites.

While the Commission supports measures to control invasive aquatic vegetation and commitments to fund aquatic weed control for the enhancement of recreational access and opportunities, details on implementation and funding in the RDEIR/SDEIS are vague to non-existent. This lack of detail gives the public little assurance that these measures would or could accomplish their intended objective.

Environmental Commitment (EC) 3B.3.2 proposes to enhance recreation access in the vicinity of the proposed intakes. This vague commitment would be improved by an actual and enforceable plan developed in consultation with State Parks, to fund and develop Delta Meadows-Locke Boarding House as proposed in State Parks *Recreation Proposal for the Sacramento-San Joaquin Delta and Suisun Marsh*.

The exclusion of EC 3B.3.3 from California WaterFix is perplexing. EC 3B.3.3 would have the project proponents contribute funds for construction of new recreation opportunities as well as for protection of existing recreation opportunities as outlined in Recommendation DP 11 of the Delta Plan. The RDEIR/SDEIS unreasonably concludes that the EC does not apply to California WaterFix because total impacts have been substantially reduced from the previous BDCP alternatives. Yet impacts to Delta recreation opportunities and experiences from the preferred alternative are still found to be significant. This omission is a missed opportunity to mitigate impacts to recreational opportunities; mitigation would also be consistent with the State Water Project obligations under the Davis-Dolwig Act (Water Code section 11900 et seq.), which requires that State Water Project facilities be constructed in a manner consistent with the full utilization of their potential for the enhancement of fish and wildlife and to meet recreational needs. While EC 3B.3.3 is vague in nature, a feasible plan developed in consultation with State Parks and funded by project proponents could result in meaningful mitigation which would reduce impacts to recreational opportunities in the Delta.

AGRICULTURAL IMPACTS

Although agricultural impacts under California WaterFix have been reduced from the BDCP proposal due to the removal of conservation measures for wide-scale habitat restoration, significant impacts to the Delta's agricultural lands and economy remain. The RDEIR/SDEIS does not clearly identify the amount of agricultural land lost due to tunnel construction or the amount of agricultural land conversion required to mitigate for habitat impacts of the tunnel construction. Further, the "temporary" impacts of reusable tunnel material (RTM) storage sites is uncertain, with the document offering varying numbers for the amount of acreage affected (2,570 acres in Appendix 3C, 2,600 acres in Chapter 3, and 3,630 acres in Chapter 14).

The RDEIR/SDEIS does not mitigate the project's impacts on the agricultural economy of the Delta, the primary economic driver in the Delta region. Although it lists agricultural economic impacts (Economic Impacts 6, 7, 12 and 13), the RDEIR/SDEIS considers these to be "no impact" under CEQA and NEPA (National Environmental Policy Act). The RDEIR/SDEIS weighs the increase in construction- and conservation-related employment and labor income against lost agricultural employment and labor income, and concludes that there is no impact. This analysis fails to quantify lost employment and labor income in the agricultural economy, and does not recognize that the project will likely benefit workers and businesses from urban areas on the periphery and outside of the Delta, while lost agricultural jobs will mainly harm workers and businesses in the rural center of the Delta.

Although the proposed project calls for much less conversion of farmland to habitat, the RDEIR/SDEIS prescribes developing an “Agricultural Land Stewardship Plan” (ALSP) as the balm for many injuries to the Delta, including economic concerns, agricultural productivity, and the loss of farmland. Although the ALSP could be valuable in supporting agriculture in the Delta, the RDEIR/SDEIS lacks sufficient information about who or what organizations would determine the appropriate activities that should be included in the ALSPs. The RDEIR/SDEIS should describe how these plans would assist landowners or employees who lose their jobs or businesses because of the project. As described earlier in this comment letter, the deferral of mitigation to as-yet undeveloped plans to be developed by the project proponents raises questions about the level of committed funding and certainty of the mitigation tools.

The Commission recommends that Delta agricultural interests (perhaps best represented by the Delta Caucus, consisting of county Farm Bureaus from the five Delta counties) should determine the most effective components to be included in ALSPs, with sufficient funding provided by the project proponents.

WATER QUALITY IMPACTS

Modeling results from the BDCP Draft EIR/EIS showed significant and unavoidable impacts for electrical conductivity (EC) and chloride. EC and chloride are among the most critical water quality constituents for in-Delta agricultural and urban use. The RDEIR/SDEIS describes new modeling and sensitivity analyses of water quality impacts intended to determine whether the water quality standards exceedances were actual project-related impacts or modeling artifacts. After changing many assumptions in the modeling, the RDEIR/SDEIS determined that the project would not cause Delta chloride, bromide, organic carbon, or other contaminants to be out of compliance any more frequently than under existing conditions. Specifically, the RDEIR/SDEIS concludes:

“Furthermore, in reality, staff from DWR and Reclamation constantly monitor Delta water quality conditions and adjust operations of the SWP and CVP in real time as necessary to meet water quality objectives. These decisions take into account real time conditions and are able to account for many factors that even the best available models cannot simulate. Thus, it is likely that some objective exceedances simulated in the modeling would not occur under the real-time monitoring and operational paradigm that will be in place to prevent such exceedances.” (RDEIR/SDEIS Section 2, page 2-10).

Chapter 8 of the RDEIR/SDEIS concludes that the negative effects on Delta water quality from facilities operations and maintenance would be less than initially expected in the Draft EIR/EIS. For the remaining “significant and unavoidable” impacts to chloride and EC concentrations, the document refers to mitigation measures WQ-7 and WQ-11. Mitigation Measure WQ-7 calls for more evaluation and modeling of water quality impacts of operating the tunnels, and future

development and implementation of phased mitigation actions. Mitigation Measure WQ-11 calls for additional evaluations of “operational ability to reduce or eliminate water quality degradation in the western Delta” to avoid or minimize reduced water quality conditions, and adaptive management to reduce or eliminate water quality degradations. The RDEIR/SDEIS acknowledges that both mitigation measures may not work. These are not acceptable mitigation measures. If the proposed project would harm Delta water quality in order to increase the reliability of water exports, then the proposed project is inconsistent with the State’s goals for the Delta.

The RDEIR/SDEIS incorporates Environmental Commitments (ECs) to bolster the mitigation measures. Yet here as well, the RDEIR/SDEIS makes no concrete commitments. In particular, EC 3B.3.1 calls for the project proponents to commit to “assisting” in-Delta municipal, industrial, and agricultural water purveyors that would be subject to significant unavoidable increases in bromide, EC, chloride, and dissolved organic carbon due to operation of the tunnels.

Unfortunately, the ECs lack specificity (such as the processes to be used, timeframe, means of payment, sources, and authority for obtaining alternative water supplies); worse yet, although the funding would be intended to “fully offset” any increased treatment or delivery costs, the solutions are expected to be “devised by the affected purveyors in consultation with project proponents after thorough investigation and completion of environmental review” (RDEIR/SDEIS Appendix 3B page 3B-73). These conditions practically guarantee that the financial compensation and assistance to Delta water agencies, agricultural interests, and other Delta water users would be hard-fought and dependent on their skill, tenacity, and financial wherewithal to participate in complex regulatory proceedings.

If the project proponents are sincere in their commitment to mitigating the effects of the project, the Final EIS/EIR must provide more concrete commitments to mitigating the harmful effects on Delta interests. Improvements to the ECs for water quality should include more detail on how the assistance to in-Delta municipal, industrial, and agricultural water purveyors would work; in particular, creating an objective third-party governance process, describing the sources for alternative water supplies, and specifying the criteria to be employed to determine eligibility for assistance.

WATER SUPPLY IMPACTS

Water Code section 85021 states that it is State policy to reduce reliance on diversions of Delta water. However, the express purpose of the WaterFix is “to make ...improvements to the SWP system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta, and water quality...” One of the objectives is to: “Restore and protect the ability of the SWP and CVP to deliver up to full contract amounts when hydrological conditions result in the availability of sufficient water....” (RDEIR/SDEIS Section 1, page 1-8).

The proposed project would maintain, not reduce, reliance on the Delta for imported water. In dry periods, the Bureau of Reclamation and Department of Water Resources frequently petition the State Water Resources Control Board to relax Delta water quality standards to allow continued exports, and these petitions are usually granted.

California WaterFix further fails to comply with Water Code section 85021, which also calls for "...a statewide strategy of investing in improved regional water supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved local coordination of local and regional water supply efforts." The RDEIR/SDEIS fails to demonstrate what has been done locally and regionally to decrease reliance on Delta water exports, analyze additional conservation measures, and determine how such scenarios could affect federal and State water project operations. It should also develop and analyze an alternative that achieves the State's goals as expressed in Water Code section 85021 with reduced Delta exports.

GENERAL RECOMMENDATIONS

As mentioned in the Commission's previous BDCP comment letter, the proposed project lacks a mechanism that can promptly respond to claims for damages resulting from the construction of the twin tunnel project. Whether from piledriving noise impacts that renders a nearby residence as unlivable or dewatering activities along the tunnel boring alignment that would dry up a private rural well, there should be a simple claims process to address economic damages to Delta residents/businesses related to tunnel construction activity. A mitigation measure should be added to establish a "Delta Compensation Fund", with funding provided by the project proponent into an escrow account to be administered by an independent third party. The Fund administrator could make payments directly (and quickly) to affected parties. This would both provide an impartial means of addressing negative impacts and a prompt method to compensate those affected.

In addition to PRC section 29703.5(a) requirements that the Commission advise the Delta Stewardship Council on methods of preserving the Delta as an evolving place, PRC section 29773 authorizes the Commission to provide comments and recommendations to the Delta Stewardship Council on any significant project proposal within the scope of the Delta Plan. Review and comment authority include identification of impacts to unique Delta values, actions that reduce or mitigate those impacts, and review for project consistency with the Commission's Land Use and Resource Management Plan, and the Delta Plan. The Council is required to consider the Commission's recommendations, and adopt those that are feasible and consistent with the Delta Plan.

Again, we strongly urge the project proponents to comply with both the letter and the spirit of existing State policy **to protect and enhance the unique cultural, recreational, natural resource and agricultural values of the Sacramento-San Joaquin Delta.**

Sincerely,

A handwritten signature in blue ink, appearing to read 'E. Vink', with a stylized flourish at the end.

Erik Vink
Executive Director

cc: John Laird, Secretary of California Natural Resources Agency
Mark Cowin, Director of California Department of Water Resources
Chuck Bonham, Director of California Department of Fish and Wildlife
Sally Jewell, Secretary of United States Department of Interior
Penny Pritzker, Secretary of United States Department of Commerce
David Murillo, Regional Director of United States Bureau of Reclamation
Ren Lohofener, Regional Director of United States Fish and Wildlife Service
Will Stelle, Regional Administrator of United States NOAA Fisheries